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Kannaiyan Vs. Subramania Pathar

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Court : Chennai

Decided On : Oct-20-1995

Reported in : 1995(2)CTC577

Judge : Raju, J.

Acts : Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 - Sections 10; Code of Civil Procedure (CPC) , 1908 - Order 6, Rule 17

Appeal No. : CRP. No. 2628 of 1995 and CMP. No. 14265 of 1995

Appellant : Kannaiyan

Respondent : Subramania Pathar

Disposition : Petition dismissed

Judgement :
ORDER

Raju, J.

1. The above revision has been filed against the order of the learned Rent Controller District Munsif, Kumbakonam dated 16.8.1995 in I.A. No 71 of 1993 in RCOP. No. 20 of 1987, whereunder the Court below has allowed an amendment application by the respondent/landlord introducing additional ground of denial of title also a ground for eviction. The application has been opposed by the

petitioner/tenant before the Court below, both on the ground mat the Rent Controller has no power to order amendment and on the ground that it is belated and that the lethargy and indifference exhibited by the respondent/landlord should have been properly taken into account to reject the claim. Overruling the objection, the amendment as prayed for the respondent /petitioner before the Court below, was ordered. Hence the above revision.

2. The learned counsel for the petitioner Mr. N. Vanchinathan vehemently contended, reiterating / the stand taken in the Court below that the Rent Controller is not a Court, and therefore the provisions of the Code of Civil Procedure have no application whatsoever and consequently he has no power of amendment of the pleadings. It was also reiterated that in spite of the statement contained in the reply notice itself not only this ground of denial of title has been not raised at the earliest, when filing the eviction petition, but even thereafter till the present application came to be filed in 1993, long after filing of the petition for eviction.

3. I have carefully considered the submissions of the learned counsel. In my view, there is no merit whatsoever in the objections taken to the order of the Court below. In 1995 2 CTC 381 (B.C.S. Enterprises v. Ashok Kumar Lunia). Rangasamy, J., has held that the Rent Controller is a Court and has inherent powers to order amendment of pleadings. Even de hors the said line of approach, I am of the view that a Forum or Authority, which has been conferred with jurisdiction to entertain a lis for adjudication of a dispute involving a decision of the rights parties before it must be considered to have all the essential and necessary powers to effectively discharge its duties. It is not a case of any amendment at a stage after the conclusion of the proceedings seeking to amend any orders already passed, but merely to a pleading in a pending matter before the learned Rent Controller. Which would avoid multiplicity of proceedings and particularly when no quashing of any limitation is involved. I am of the view that the Rent Controller has such powers as are incidental and necessary to effectively discharge his functions under the Tamilnadu Buildings (Lease and Rent Control) Act, 1960.

4. The plea on the ground of laches also does not appeal to me, particularly when no question of limitation is involved and the rent, control petition filed in the year 1987 is still pending. The order of the Court below has rendered substantial justice to the parties and the petitioner/tenant cannot be said to be in any manner prejudiced, nor it could be said that any of his legally protected rights are undermined by the amendment being allowed. The petitioner shall be at liberty to file an additional counter in the main eviction petition. In view of the above and having regard to the fact that the revision has been filed under Article 227 of the Constitution of India, I do not see any justification to entertain this revision petition. This civil revision petition, therefore, fails and shall stand dismissed.

5.CMP.No. 14265 of l995

Consequently the above CMP., for stay shall also stand dismissed.

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